

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 98-356

August 24, 1998

PUBLIC UTILITIES COMMISSION  
Regarding Provision of  
Payphone Service in Maine

ORDER

WELCH, Chairman; NUGENT, Commissioner

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## **I. SUMMARY**

In this Order, we decline to initiate a public interest payphone (PIP) program at this time, but announce our intent to monitor the development of the competitive payphone market in Maine.

## **II. BACKGROUND**

Section 276 of the Telecommunications Act of 1996 required the Federal Communications Commission (FCC) to "determine whether public interest payphones, which are provided in the interest of public health, safety, and welfare, in locations where there would otherwise not be a payphone, should be maintained, and if so, ensure that such public interest payphones are supported fairly and equitably."

In the Report and Order FCC 96-388 at paragraph 282, the FCC defined a PIP as, "a payphone which (1) fulfills a public policy objective in health, safety, or public welfare, (2) is not provided for a location provider with an existing contract for the provision of a payphone, and (3) would not otherwise exist as a result of the operation of the competitive marketplace." The FCC directed each state to review its rules and policies to determine whether it has provided for PIPs, to determine if it needed to establish a PIP program, and, if so, to fairly and equitably fund the program by September 20, 1998.

## **III. DATA REQUEST ON PIPs**

On May 7, 1998, staff opened this inquiry and sent a request to all local exchange carriers (LECs) and other payphone providers having more than 10 payphones in the state of Maine seeking data on the number, placement and rates of payphones in Maine over the past 3 years as well as comments on the future of payphone service in Maine. A spreadsheet summarizing the data received is attached as Appendix A to this Order.

The responses indicate a general trend towards additional payphones over the past three years, even in rural areas. Some of the more rural companies are charging the lowest rates for their payphone service, including free local calls at both Saco River and Island Telephone payphones. While some companies have begun to assess the economic viability of their payphones, the principal drivers of payphone removals are still vandalism and location provider issues such as space rental costs.

#### **IV. SUMMARY OF COMMENTS ON PIPs**

Two entities specifically commented on the future of PIPs in Maine and the need for a PIP program. A third entity included information in its data responses that may have significant implications on the future of payphone service in Maine.

Bell Atlantic - Maine (BA-ME) urges the Commission to allow the competitive marketplace to develop before determining whether PIPs are necessary in Maine. According to BA-ME, payphone providers are just now beginning to receive per call compensation and the market should be allowed to adjust to these changes. BA-ME provides several alternative suggestions for ensuring the availability of payphones, such as Maine's current requirement that local exchange carriers maintain one payphone per exchange and contracting strategies for government bodies that encourage placement of marginal payphones in return for profitable placements. BA-ME also suggests funding methods and structures for any PIP program Maine may choose to adopt. Finally, BA-ME expresses a desire to work with the Commission in any future PIP proceeding.

The New England Public Communications Council (NEPCC) believes that the competitive market cannot be adequately assessed through a one-time collection of data and that the necessity of any PIP program must be monitored over time. If the Commission determines that PIPs are necessary in Maine, NEPCC says the Commission must ensure that any such program is fairly administered and costs apportioned in a nondiscriminatory fashion.

TDS Telecom, with several subsidiaries serving rural areas of Maine, notes in its data response that it is in the process of selling all of its payphones to PhoneTel. Prior to this announced sale, the total number of payphones owned by TDS had increased slightly over the previous three years. The Commission

will monitor the developments following this transaction, if completed, to ensure that these areas have access to payphones.<sup>1</sup>

## V. CONCLUSION

As of March 31, 1998, there were 30 major providers of payphones in Maine with more than 8,200 operating payphones among them. The distribution of these payphones currently ensures, with one exception, that at least one payphone exists per telephone exchange throughout Maine.<sup>2</sup> In addition, many extant payphones will become more profitable as per call compensation for calling card and toll free calls takes effect. The Consumer Assistance Division of the Commission (CAD) has recorded no complaints regarding payphone removals, but we will continue to monitor statistics from CAD.

We do not believe a PIP program is needed at this time; Maine has yet to realize a significant impact from the implementation of Section 276 of the Telecommunications Act of 1996. However, recognizing the changing nature of the marketplace, we will continue to monitor the need for a PIP program. If in the future evidence is presented to indicate a need, this issue will be addressed.

Therefore, we

O R D E R

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<sup>1</sup> Chapter 25 of the Public Utilities Commission's rules requires that LECs provide at least one payphone per exchange, barring a Commission waiver.

<sup>2</sup> The apparent sole exception is the West Lebanon exchange, which is wholly contained in the municipality of Lebanon, in southwestern York County. The exchange is geographically quite small, and the neighboring exchanges of Lebanon and South Lebanon contain payphones. Thus, although the West Lebanon exchange does not contain any payphones, there are several within the municipality of Lebanon and in close proximity to the geographic boundaries of the West Lebanon exchange.

1. That a copy of this Order be sent to the FCC as per FCC Order 96-388 in CC Docket No. 96-128, issued September 20, 1996, and;
2. That this docket be closed.

Dated at Augusta, Maine, this 24th day of August, 1998.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR:      Welch  
   Nugent

## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of adjudicatory proceedings are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 6(N) of the Commission's Rules of Practice and Procedure (65-407 C.M.R.11) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which consideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320 (1)-(4) and the Maine Rules of Civil Procedure, Rule 73 et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320 (5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.